

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**IVORY J. BURSEY,**

Plaintiff,

v.

**BUDDY BURGESS and PAL-SERV,**

Defendants.

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Civil Action No. **3:18-CV-353-L-BK**

**ORDER**

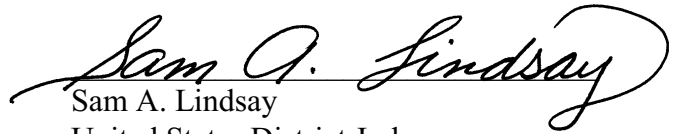
This case was referred to United States Magistrate Judge Renée Harris Toliver, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on March 22, 2018, recommending that this action brought by pro se Plaintiff Ivory J. Bursey (“Plaintiff”) be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with a court order, as he failed to supplement his motion to proceed *in forma pauperis* and respond to a questionnaire as ordered by the magistrate judge. No objections to the Report were filed.

After reviewing the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, **accepts** them as those of the court, and **dismisses without prejudice** this action under Rule 41(b) for failure to prosecute and comply with a court order.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.21 (5th Cir.

1997). The court **concludes** that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 6th day of July, 2018.

  
Sam A. Lindsay  
United States District Judge